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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/695,344	10/28/2003	Rudolf J. Hofmeister	15436.253.65.1	5607
22913	7590	02/28/2007	EXAMINER	
WORKMAN NYDEGGER (F/K/A WORKMAN NYDEGGER & SEELEY) 60 EAST SOUTH TEMPLE 1000 EAGLE GATE TOWER SALT LAKE CITY, UT 84111			HOLLINGTON, JERMELE M	
		ART UNIT	PAPER NUMBER	
			2829	
SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE		
3 MONTHS	02/28/2007	PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/695,344	HOFMEISTER ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Jermele M. Hollington	2829	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 07 December 2006.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-36 is/are pending in the application.
- 4a) Of the above claim(s) 15-36 is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-5 and 7-14 is/are rejected.
- 7) Claim(s) 6 is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All
  - b) Some \*
  - c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO/SB/08)  
*[initials]* Paper No(s)/Mail Date 10/06
- 4) Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) Notice of Informal Patent Application
- 6) Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Election/Restrictions***

1. Applicant's election without traverse of Invention I, claims 1-14, in the reply filed on December 7, 2006 is acknowledged.

2. Claims 15-36 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim.

Election was made **without** traverse in the reply filed on December 7, 2006.

### ***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-5 and 7-14 are rejected under 35 U.S.C. 102(b) as being anticipated by Watt et al (6086412).

Regarding claim 1, Watt et al disclose [see Figs. 6-8] an assembly (connector 10B) [see Note below] comprising: a base (housing part 50) having a printed circuit board receptacle (not numbered but shown) configured to receive a printed circuit board (PCB 44) of an electrical component; and an arm (housing part 48) connected to the base (50), the arm (48) comprising a flexible circuit (flexible circuit 42) having a data input and a data output, wherein the arm (48) is selectively positionable between an open [Fig. 6] and a closed [Fig. 8] position, wherein in the closed position [Fig. 8], the arm (48) forms a temporary electrical connection between at least

one of: the data input and a transmit port of the electrical component (part of PCB 44), and the data output and a receive port of the electrical component (part of 44).

[Note: The recitation “for testing electrical components of optoelectronic devices before the electrical components are connected with the optical components of the optoelectronic device” has not been given patentable weight because the recitation occurs in the preamble. A preamble is generally not accorded any patentable weight where it merely recites the purpose of a process or the intended use of a structure, and where the body of the claim does not depend on the preamble for completeness but, instead, the process steps or structural limitations are able to stand alone. See *In re Hirao*, 535 F.2d 67, 190 USPQ 15 (CCPA 1976) and *Kropa v. Robie*, 187 F.2d 150, 152, 88 USPQ 478, 481 (CCPA 1951).]

Regarding claim 2, Watt et al disclose the arm (48) is pivotally connected to the base (50) [via hinge 56].

Regarding claim 3, Watt et al disclose the arm (48) further comprising at least one pressure fixture (spring loaded component 30) for applying pressure to the data input connection and data output connection of the flexible circuit (42) against the transmit port and receive port of the electrical component (part of 44), respectively, when the arm (48) is in the closed position [Fig. 8].

Regarding claims 4-5, Watt et al disclose the at least one pressure fixture (30) comprises a spring-loaded pin or a piece of foam.

Regarding claim 7, Watt et al disclose a first cable (conductor 42a) connected to the data input; and a second cable (conductor 42b) connected to the data output.

Regarding claims 8-9, Watt et al disclose the first and the second cables (42a and 42b) comprise coaxial cable and are the same cable (42).

Regarding claim 10, Watt et al disclose the flexible circuit (42) further a data transmit port (42a); and a data receive port (42b), wherein the data transmit port (42a) and the data receive port (42b) are configured to [see Note below] be electrically connected to a tester apparatus.

[Note: Claim limitations that employ phrases of the type "configured to" are typical of claim limitations, which may not distinguish over the prior art. It has been held that the recitation that an element is "configured to" perform a function is not a positive limitation but only requires the ability to so perform. See also MPEP 2111.04]

Regarding claim 11, Watt et al disclose when the arm (48) is in the closed position [Fig. 8], a temporary connection is formed between at least one of: the transmit port of the electronic component (44) and the data transmit port (42a) of the flexible circuit (42), and the receive port of the electronic component (44) and the data receive port (42b) of the flexible circuit (42).

Regarding claim 12, Watt et al disclose inherently a host computer configured to be placed in electrical connection with the printed circuit board (44) of the electrical component.

Regarding claim 13, Watt et al disclose the transmit port and receive port of the electrical component (44) are configured to [see Note below] be coupled to a transmitter optical assembly and a receiver optical assembly, respectively.

[Note: Claim limitations that employ phrases of the type "configured to" are typical of claim limitations, which may not distinguish over the prior art. It has been held that the recitation that an element is "configured to" perform a function is not a positive limitation but only requires the ability to so perform. See also MPEP 2111.04]

Regarding claim 14, Watt et al disclose a mechanical clamp (arms 52 and latch hooks 52a) for applying pressure to the data input connection (42a) and data output connection (42b) of the flexible circuit (42) against the transmit port and receive port of the electrical component (44), respectively, when the arm (48) is in the closed position [Fig. 8].

***Conclusion***

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. See PTO-892 for details.
6. Claim 6 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.
7. The following is a statement of reasons for the indication of allowable subject matter: regarding claim 6, the reason for allowability is due to an assembly comprising at least one magnet disposed thereon for assisting the arm in forming the temporary electrical connection between the flexible circuit and the electrical component.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jermele M. Hollington whose telephone number is (571) 272-1960. The examiner can normally be reached on M-F (9:00-4:00 EST) First Friday Off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ha Nguyen can be reached on (571) 272-1678. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

*Jermelle M. Hollington*  
Jermelle M. Hollington  
Primary Examiner  
Art Unit 2829

JMH  
February 26, 2007